THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.24354 OF 2005

Date:18.11.2005

Between:

K.Srinivas Mudiraj

… Petitioner

AND

The A.P. Legislative Secretariat, Hyd.

… Respondent

ORDER:

The petitioner is employed as an Attender in the Andhra Pradesh Legislative Secretariat. He has been placed under suspension through order, dated 10.08.2005, on the ground that he is facing prosecution in Crime No.549 of 2005 for the offence under Section 498-A I.P.C. Clause (a) of Sub-Rule (2) of Rule 8 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules (for short 'the Rules') was invoked. The petitioner challenges the same.

The learned counsel for the petitioner submits that the order of suspension was passed mechanically without examining as to whether the implication of the petitioner in the said crime had anything to do with the duties and conduct. Placing reliance upon the Judgment rendered by a Division Bench of this court in **P.RAJENDER v UNION OF INDIA**, he urges that the respondent is under obligation to examine the matter from that angle. He also complains that the petitioner is not being paid any subsistence allowance.

The learned Government Pleader for Home, on the other hand, submits that it is too

premature to decide anything as to the nature of the action to be taken against the petitioner. He further submits that the steps are being taken to pay the subsistence allowance to the petitioner.

The petitioner was placed under suspension, on the sole ground that he has been implicated in Crime No.549 of 2005 for the offence under Section 498-A I.P.C., and that he was in judicial custody for a specified period. It is true that the Rule referred to above gets attracted to the facts of the case. To that extent, the order passed by the respondent, placing the petitioner under suspension, cannot be found fault with. The matter, however, does not end there.

Where an employee is placed under suspension on account of his being implicated in a criminal case, the appointing authority is under obligation to make a further verification as to whether the crime attributed to the employee is such that it would render him unfit to be continued. The suspension can be continued if only it emerges that the allegations are serious in nature and they touch upon the moral turpitude and the relevant factors of employment.

The Division Bench of this Court in the Judgment referred to supra dealt with a similar case and held that the appointing authority is under obligation to examine the matter independently. Incidentally, that was also a case arising under Section 498-A I.P.C.

So far as the subsistence allowance is concerned, the respondent states that the steps have reached almost finality and the requisite amount would be released very shortly.

For the foregoing reasons, the writ petition is disposed of directing that:

a. the respondent shall release the subsistence allowance payable to the petitioner forthwith; and

b. he shall undertake a fresh assessment of the matter and decide as to whether the continuance of suspension of the order is warranted in the facts and circumstances of the case. It shall be open to the petitioner to enclose a copy of the Judgment of the Division Bench referred to above. An order in this regard shall be passed within a period of four weeks from the date of receipt of a copy of this order.

18.11.2005

Note: Issue C.C. by Monday.

(B/o)

kdl